

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

HENRY VALDEZ,)	Case No. 1:18-CV-287
)	
Petitioner)	Judge Dan Aaron Polster
)	
v.)	<u>OPINION AND ORDER</u>
)	
WARDEN LYNEAL WAINWRIGHT,)	
)	
Respondent.)	
<hr style="width:45%; margin-left:0"/>)	

This case is before the Court on the Report and Recommendation (“R & R”) of Magistrate Judge Knepp, Doc #: 12. The Magistrate Judge recommends that the Court grant the Respondent, Warden Lyneal Wainwright’s Motion to Dismiss, Doc #: 8, deny Petitioner Henry Valdez’s Motion for Voluntary Dismissal, Doc #: 9, and dismiss Valdez’s 28 U.S.C. § 2254 Petition for Writ of Habeas Corpus by a Person in State Custody. Doc #: 1. On December 4, 2018, Valdez moved for an extension of time to file his Objection, Doc #: 13. The Court granted his Motion for Extension in part, requiring Valdez to file his Objection by December 17, 2018. [Non-Doc Order]. Valdez filed his timely¹ Objection to Judge Knepp’s R & R on December 19, 2018. Doc #: 14. The Court has carefully reviewed the R & R and Valdez’s Objection, and hereby **OVERRULES** Valdez’s Objection and **ADOPTS** the R & R in full. Valdez’s Petition is **DISMISSED WITH PREJUDICE**.

¹ Pursuant to the prison mailbox rule, a pro se prisoner’s pleading “is deemed filed when the inmate gives the document to prison officials to be mailed.” *In re: Prison Litig. Reform Act*, 105 F.3d 1131, 1132 (6th Cir. 1997) (citing *Houston v. Lack*, 487 U.S. 266, 270 (1988)). See Doc #: 14 (representing that Objections were placed in the prison mailing system on December 17, 2018).

I. Analysis

Respondent moved to dismiss Valdez's Petition because the statute of limitations had run. Doc #: 8. Valdez filed his Motion for Voluntary Dismissal, arguing that his Petition should be dismissed without prejudice so that he could exhaust his state law remedies before re-filing his Petition. Doc #: 9. Respondent filed an Opposition to Valdez's Motion for Voluntary Dismissal, Doc #: 10, and Valdez filed a Reply, Doc #: 11. The R & R discusses at length that Valdez's Petition is time-barred and should therefore be dismissed. Valdez's Objection rehashes the same arguments made in his Motion for Voluntary Dismissal and his Reply.

The Federal Magistrates Act requires a district court to conduct a de novo review of those portions of the R & R to which an objection has been made. 28 U.S.C. § 636(b)(1). However, an Objection to an R & R is not meant to be simply a vehicle to rehash arguments set forth in the petition, and the Court is under no obligation to review de novo objections that are merely an attempt to have the district court reexamine the same arguments set forth in the petition and briefs. *Roberts v. Warden, Toledo Correctional Inst.*, No. 1:08-CV-00113, 2010 U.S. Dist. LEXIS 70683, at *22, 2010 WL 2794246, at *7 (S.D. Ohio Jul. 14, 2010) (citation omitted); *see Sackall v. Heckler*, 104 F.R.D. 401, 402 (D.R.I. 1984) ("These rules serve a clear and sensible purpose: if the magistrate system is to be effective, and if profligate wasting of judicial resources is to be avoided, the district court should be spared the chore of traversing ground already plowed by the magistrate"); *O'Brien v. Colvin*, No. CIV.A. 12-6690, 2014 WL 4632222, at *3 (E.D. Pa. Sept. 16, 2014) (collecting cases); *Howard v. Sec'y of Health & Human Servs.*, 932 F.2d 505, 509 (6th Cir. 1991) ("A general objection to the entirety of the magistrate's report has the same effects as would a failure to object. The district court's attention is not focused on any specific issues for review, thereby making the initial reference to the magistrate useless. The functions of the district

court are effectively duplicated as both the magistrate and the district court perform identical tasks. This duplication of time and effort wastes judicial resources rather than saving them and runs contrary to the purposes of the Magistrates Act.”).

Valdez’s Objection to the R & R raises the same arguments on the merits as he presented to the Magistrate Judge in his Motion for Voluntary Dismissal, Doc #: 9, and his Reply in support of his Motion of Voluntary Dismissal, Doc #: 11—all of which the Magistrate Judge addressed in the R & R. The Court has thus reviewed the R & R for error and is satisfied that Magistrate Judge Knepp’s conclusions on the merits are correct.

II. Conclusion

Accordingly, the Court **OVERULES** Valdez’s Objection, Doc #: 14, and **ADOPTS IN FULL** Magistrate Judge Knepp’s Report and Recommendation, Doc #: 12. The above-captioned case is hereby **DISMISSED AS FINAL**.

IT IS SO ORDERED.

/s/*Dan Aaron Polster* *Dec. 26, 2018*
Dan Aaron Polster
United States District Judge